THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.21534 of 1997

Date: 14.02.2007

Between:

G.Tirupathi Reddy & others.

....Petitioners

and

The Revenue Divisional Officer,
Kurnool District & others.

....Respondents

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O R D E R:

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The petitioners are said to be the tenants over an extent of Ac.0.6 ½ cents in Sy.Nos.35/5C 1A-24 and 35/5C 1A-25 of King Market, Kurnool District and the structures thereon. The said premises are by the side of a municipal market. The then Municipal Council, Kurnool District intended to expand the market and initiated steps for acquisition of the premises under the occupation of the petitioners along with certain other premises. Notifications under Sections 4 (1) and 6 of the Land Acquisition Act, 1894 (for short 'the Act') were issued and even an award was passed on 21.03.1979. The petitioners and certain others filed W.P.No.4113 of 1981 in this Court challenging the award alleging that though they are interested parties, they were not put on notice, much less, paid any portion of compensation. The writ petition was disposed of on 02.04.1986 by setting aside the award and directing the Land Acquisition Officer to conduct fresh award enquiry and enabling the petitioners to participate therein. The petitioners were precluded from assailing the validity of the acquisition proceedings i.e. the notification under Section 4(1) of the Act.

The present writ petition was filed on 08.09.1997 alleging that the respondents were trying to dispossess them without complying with the directions of this Court in W.P.No.4113 of 1981. An order of status quo was passed on 09.09.1997. Alleging that even before the order was passed by this Court they were

evicted, the petitioners filed an application to such an extent that the relief of restoration of possession be granted. The said application was ordered. The result is that the petitioners seek the relief of restoration of possession of the property under their possession. They state that as long as the fresh award was not passed, the respondents were not justified in dispossessing them.

On behalf of the third respondent, a counter-affidavit is filed. It is stated that the proceedings under the Act have become final and even O.S.No.383 of 1997 in the Court of the Principal District Munsif, Kurnool, for the relief of perpetual injunction was filed by the petitioners. It is ultimately urged that the possession has since been delivered and constructions have been undertaken thereon.

Heard the learned counsel for the petitioners and the learned counsel for the respondents.

Admittedly, the petitioners were tenants over the premises in question. It is a matter of record that the said premises were acquired by the respondents by invoking the provisions of the Act. The acquisition proceedings have virtually terminated with the passing of the award. It is no doubt true that at the instance of the petitioners, the award was set aside, paving the way for the petitioners and other similarly situated persons to participate therein. The said order came to be passed by this Court in view of the fact that the respondents in that writ petition did not file any counter-affidavit. The fact that the compensation was already paid to the owners of the land was not taken note of, nor was it indicated as to what had happened to the said amount.

One important aspect of the matter is that in the order in W.P.No.4113 of 1981, this Court made it amply clear that the petitioners shall not be entitled to assail the validity of the

acquisition proceedings. Their right was limited to the one of participation in the award enquiry, so that they can claim portion of the compensation, if they are able to establish their rights. With the finality attached to the land acquisition proceedings, the vesting of the properties in the Government has not only remained intact, but also became absolute. If, for any reason, the petitioners were in possession of the property even after the property vested in the Government, it was always open to the respondents to resume it.

The Act does not contemplate initiation of any proceedings or steps to resume possession of the acquired property. Therefore, the dispossession of the petitioners from the property in question cannot be found fault with. The only subsisting grievance of the petitioners is about implementation of the directions issued in W.P.No.4113 of 1981. If the said directions were not implemented or enforced, the petitioners ought to have taken necessary steps. Assuming that there was any lapse in the matter of implementation of the directions contained in the order in W.P.No.4113 of 1981, the petitioners cannot have any right to continue in possession of the property, once it stood vested with the Government. Hence, this Court does not find any basis to grant relief to the petitioners.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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14.02.2007

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